

**REMARKS**

It is noted that the examiner objected to the drawings for not showing every claimed feature. Enclosed herewith is a new Figure 7 showing the uneven larger end of the head and the apertures formed in the larger end, as described and claimed. The examiner is requested to approve this new Figure 7, and to advise Applicant accordingly.

The examiner objected to the specification on page 4, lines 2 and 8 because the numerals "22" and "24" were used to designate the inner end. By this amendment, Applicants have amended the specification to correctly indicate the inner end as "24".

The examiner rejected claims 1, 3, 6, 8, 10, 12 – 17 and 20 under 35 U.S.C. § 112, second paragraph, as being indefinite for the use of certain wording therein. This 112 rejection is believed to be overcome by the amendments to claims 1, 3, 5, 6, 8, 10 - 16, 18 and 20 forth herein.

The examiner rejected claims 1 – 7, 11 and 12 under 35 U.S.C. § 102(b) as being anticipated by Link et al (Link) or Link '336.

The examiner also rejected claims 7, 9 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Link or Link '336.

Applicants' claimed invention is a water sinker toy comprised of a head made from a material having sufficient weight to enable the water sinker toy to sink in water and a tail portion having a plurality of tapered elements made from floatable material to provide the water sinker toy with buoyancy. The head has an opening with a space formed so as to allow the opening to be adjusted in size and the plurality of tapered elements are removably secured in the head and formed as elongated members that will move when in water to simulate tentacles of a squid. It is Applicant's contention that this water toy having an adjustable opening and elongated, tapered members that simulate tentacles of a squid when in water differentiates Applicant's invention from the prior art.

Both of the references to Link and Link '336, cited by the examiner, are drawn to fishing lures having hooks and sound making devices therein. Neither of these references disclose or teach Applicants' specifically claimed water toy, and to be used

as a toy would have to have the hook taken therefrom, which would teach away from their intended use.

Therefore, neither of the patents cited by the examiner in rejecting the claims, whether taken alone or properly combined, contains teaching or provides motivation of how or why they may be combined and/or modified to arrive at Applicants' water toy as claimed herein. Therefore, the examiner's rejections are believed to be improper and should be withdrawn.

It is noted that the examiner indicated that claims 8, 10 and 14 - 20 would be allowable if rewritten to overcome the 112 rejection and/or to be in independent form. The amendments made herewith are believed to overcome all of the examiner's objections and/or rejections, and these claims, as well as all of the remaining claims in this application are believed to be allowable.

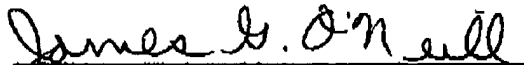
Since no claims were added by this amendment, no further fee is required.

In view of the above, the Examiner is respectfully requested to allow this application and to notify Applicants accordingly.

If the Examiner has any questions with regard to this amendment she is respectfully requested to contact Applicants' attorney at either the facsimile or telephone number set forth below.

Very truly yours,

KLEIN, O'NEILL & SINGH, LLP

  
James G. O'Neill, Reg. No. 22,858  
2 Park Plaza, Suite 510  
Irvine, CA 92614  
Tel.: 949/955-1920  
Fax.: 949/955-1921